

FILED
Court of Appeals
Division III
State of Washington
10/18/2018 1:02 PM

NO. 35704-0-III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

STATE OF WASHINGTON,

Respondent,

v.

ERIC OLSEN,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR WALLA WALLA COUNTY

The Honorable M. Scott Wolfram, Judge

SUPPLEMENTAL BRIEF OF APPELLANT

JARED B. STEED
Attorney for Appellant

NIELSEN, BROMAN & KOCH, PLLC
1908 E Madison Street
Seattle, WA 98122
(206) 623-2373

TABLE OF CONTENTS

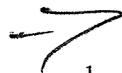
	Page
A. <u>ASSIGNMENT OF ERROR</u>	1
<u>Issue Pertaining to Assignment of Error</u>	1
B. <u>SUPPLEMENTAL STATEMENT OF THE CASE</u>	1
C. <u>ARGUMENT</u>	1
THE \$200 FILING FEE MUST BE STRICKEN BASED 3 ON INDIGENCY.	1 
D. <u>CONCLUSION</u>	3

TABLE OF AUTHORITIES

Page

WASHINGTON CASES

State v. Ramirez
__ Wn.2d __, __ P.2d __, 2018 WL 4499761 (September 20, 2018) 1, 2

RULES, STATUTES AND OTHER AUTHORITIES

Engrossed Second Substitute House Bill 1783, 65th Leg., Reg. Sess.
(Wash. 2018) (HB 1783) 1, 2

Laws of 2018, ch. 269, § 17..... 2

RCW 10.101.010 1, 2

RCW 36.18.020 2

A. SUPPLEMENTAL ASSIGNMENT OF ERROR

The \$200 criminal filing fee should be stricken from the judgment and sentence.

Issue Pertaining to Assignment of Error

Under the Supreme Court's recent decision in State v. Ramirez,¹ must the \$200 filing fee be stricken?

B. SUPPLEMENTAL STATEMENT OF THE CASE

At sentencing, Olsen was ordered to pay a \$200 criminal filing fee. CP 38. Following entry of judgment and sentence, defense counsel moved for an order of indigency because Olsen fell below the poverty guidelines under RCW 10.101.010 and federal law. CP 51-52. The trial court found Olsen to be indigent and lacking sufficient funds to prosecute an appeal. CP 50-52.

C. ARGUMENT

THE \$200 FILING FEE MUST BE STRICKEN BASED ON INDIGENCY.

In State v. Ramirez, the Supreme Court discussed and applied Engrossed Second Substitute House Bill 1783, 65th Leg., Reg. Sess. (Wash. 2018) (HB 1783), which became effective June 7, 2018 and applies prospectively to cases currently on appeal. Ramirez, WL 4499761 at *3, 6-8.

¹ State v. Ramirez, ___ Wn.2d ___, ___ P.2d ___, 2018 WL 4499761 (September 20, 2018).

HB 1783 amended RCW 36.18.020(2)(h), which now states the \$200 criminal filing fee "shall not be imposed on a defendant who is indigent as defined in RCW 10.101.010(3)(a) through (c)." Laws of 2018, ch. 269, § 17. Under RCW 10.101.010(3)(a) through (c), a person is "indigent" if the person receives certain types of public assistance, is involuntarily committed to a public mental health facility, or receives an annual income after taxes of 125 percent or less of the current federal poverty level.

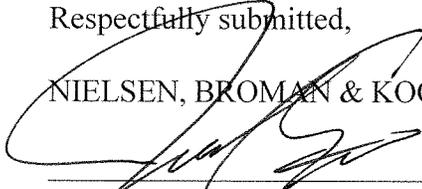
This amendment "conclusively establishes that courts do not have discretion" to impose the criminal filing fee against those who are indigent at the time of sentencing. Ramirez, at *8. In Ramirez, the Supreme Court accordingly struck the criminal filing fee due to indigency. Id. Here, the record indicates Olsen is indigent under RCW 10.101.010 (3). CP 50-52. Because HB 1783 applies prospectively to his case, the sentencing court similarly lacked authority to impose the \$200 filing fee.

D. CONCLUSION

This Court should strike the \$200 filing fee.

DATED this 18th day of October, 2018.

Respectfully submitted,


NIELSEN, BROMAN & KOCH, PLLC

JARED B. STEED
WSBA No. 40635
Office ID No. 91051

Attorneys for Appellant

NIELSEN, BROMAN & KOCH P.L.L.C.

October 18, 2018 - 1:02 PM

Transmittal Information

Filed with Court: Court of Appeals Division III
Appellate Court Case Number: 35704-0
Appellate Court Case Title: State of Washington v. Eric Leon Olsen
Superior Court Case Number: 17-1-00032-6

The following documents have been uploaded:

- 357040_Briefs_20181018130030D3339836_4826.pdf
This File Contains:
Briefs - Appellants - Modifier: Supplemental
The Original File Name was SBOA 35704-0-III.pdf

A copy of the uploaded files will be sent to:

- jnagle@co.walla-walla.wa.us
- tchen@co.franklin.wa.us

Comments:

Copy mailed to: Eric Olsen, 606 Shick Ave Walla Walla, WA 99362

Sender Name: John Sloane - Email: Sloanej@nwattorney.net

Filing on Behalf of: Jared Berkeley Steed - Email: steedj@nwattorney.net (Alternate Email:)

Address:
1908 E. Madison Street
Seattle, WA, 98122
Phone: (206) 623-2373

Note: The Filing Id is 20181018130030D3339836